IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE FOURTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE K.C. BHANU

–

W.A.Nos.272, 273 and 274 of 1982, 468 and 469 of 1988

AND

W.P.Nos.2897 of 1981, 472, 2251, 1978, 1945, 1982 of 1982, 144 of 1983 and 22429 of 1996

Writ Appeals under Clause 15 of the Letters Patent against the Order against the order of the High Court dated 24.02.1982, 24.02.1982, 24.08.1982, 22.03.1988 and 22.03.1988 and made in WP.Nos.9821, 7082, 2846 of 1981 and 1051 and 1060 of 1986 respectively)

WRIT APPEAL NO : 272 of 1982

Between:

M/s. Singareni Collieries Company Limited, rep. By its Chairman, Kothagudem

Khammam District.

... APPELLANT/

RESPONDENT NO: 2

AND

1. V. Satyanaraya Murthy

2. Government of Andhra Pradesh, rep.by its Chief Secretary, Secretariat

Buildings, Hyderabad.

3. Revenue Divisional Officer & Land Acquisition Officer, Peddapalli, Karimnagar

District.

...PETITIONERS

RESPONDENT (1 & 3)

(RESPONDENTS)

Counsel for the Appellant: MR.K.SRINIVASAMURTHY

Counsel for the Respondent No.1: MR. S. PRASAD

Counsel for the Respondents 2 & 3: GP FOR LAND ACQUISITION

WRIT APPEAL NO : 273 of 1982

Between:

M/s. Singareni Collieries Company Limited, rep. By its Chairman, Kothagudem

Khammam District.

... APPELLANT/

RESPONDENT NO: 2

AND

1. Salliki Surya Rao

2. Government of Andhra Pradesh, rep.by its Chief Secretary, Secretariat

Buildings, Hyderabad.

3. Revenue Divisional Officer & Land Acquisition Officer, Peddapalli, Karimnagar

District.

...PETITIONERS

RESPONDENT (1 & 3)

(RESPONDENTS)

Counsel for the Appellant: MR.K.SRINIVASAMURTHY

Counsel for the Respondent No.1: MR. S. PRASAD

Counsel for the Respondents 2 & 3: GP FOR LAND ACQUISITION

WRIT APPEAL NO : 274 of 1982

Between:

M/s. Singareni Collieries Company Limited, rep. By its Chairman, Kothagudem

Khammam District.

... APPELLANT/

RESPONDENT NO: 2

AND

1. P. Kota Nagamallayya

2. V. Seenayya

3. K. Viswanadham

4. G. Anasuyamma

5. Government of Andhra Pradesh, rep.by its Chief Secretary, Secretariat Buildings, Hyderabad.

6. Revenue Divisional Officer & Land Acquisition Officer, Peddapalli, Karimnagar District.

...RESPONDENTS

PETITIONERS

RESPONDENTS 1 & 3

IN WP NO: 2846/81

Counsel for the Appellant: MR.K.SRINIVASAMURTHY

Counsel for the Respondents 1 to 4: MR. S. PRASAD

Counsel for the Respondents 5 & 6: GP FOR LAND ACQUISITION

WRIT APPEAL NO : 468 of 1988

Between:

M/s. Singareni Collieries Company Limited, rep. By its Chairman, Kothagudem Khammam District.

.... APPELLANT

AND

1. G. Rajaiah

2. The State of A.P. rep.by its Secretary to Government of Industries & Commerce (I.D) Department, Secretarait Buildings, Hyderabad.

3. The Special Deputy Collector, Land Acquisition. Godavari Khani, Karimnagar

District.

4. The Land Acquisition Officer & Revenue Divisional Officer, Peddapalli,

Karimnagar District.

...RESPONDENTS

Counsel for the Appellant: MR.G.S.N.MURTHY
Counsel for the Respondent No.1: MR. S. PARVATHA RAO
Counsel for the Respondent No.2: GP FOR FINANCE & PLANNING
Counsel for the Respondents 3 & 4: GP FOR LAND ACQUISITION

WRIT APPEAL NO : 469 of 1988

Between:

M/s. Singareni Collieries Company Limited, rep. By its Chairman, Kothagudem

Khammam District.

.... APPELLANT

AND

1. Syed Raheemuddin

2. Syed Saheb Pasha

3. Syed Tajuddin

4. The State of A.P. rep.by its Secretary to Government of Industries &

Commerce (I.D) Department, Secretarait Buildings, Hyderabad.

5. The Special Deputy Collector, Land Acquisition. Godavari Khani, Karimnagar

District.

6. The Land Acquisition Officer & Revenue Divisional Officer, Peddapalli,

Karimnagar District.

...RESPONDENTS

Counsel for the Appellant: MR.G.S.N.MURTHY
Counsel for the Respondents 1 to 3: MR. S. PARVATHA RAO
Counsel for the Respondent No.4: GP FOR FINANCE & PLANNING

Counsel for the Respondents 5 & 6: GP FOR LAND ACQUISITION

WRIT PETITION NO : 2897 of 1981

Between:

1. P. Kota Nagamallyya R/o. Alluru

2. G. Anasuyamma, R/o. Kamanpuram

... PETITIONERS

AND

1. Government of Andhra Pradesh, rep. by its Chief Secretary, Secretary,

Secretariat Buildings, Hyderabad.

2. The Singareni Collieries Limited, rep. by its Chairman, Kothagudem,

Khammam District.

3. Revenue Divisional Officer and Land Acquisition Officer, Peddapalli

Karimnagar District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ, Order or direction, declaring the land acquisition proceedings in respect of petitioners land in S.No.59 of Alluru Village, kamanpauram, Firka, Peddapalli Taluq, Karimnagar District, as illegal, null and void and to issue a consequential direction directing the respondents herein to redeliver the possession of remaining vacant land of the petitioners land, and a further consequential direction directing the respondents to pay the compensation to the petitioners at the present market value forthwith, for the land on which construction is made by the respondents.

Counsel for the Petitioners: MR.M.S.PRASAD

Counsel for the Respondents 1 & 3: GP FOR LAND ACQUISITION

Counsel for the Respondent No.2: MR.K.SRINIVASAMURTHY

WRIT PETITION NO : 472 of 1982

Between:

Smt. Eluru Appalamma

... PETITIONER

AND

1. Government of A.P. rep.by its Chief Secretary, Secretariat Buildings,

Hyderabad.

2. M/s. Singareni Collieries Limited, rep.by its Chairman, Kothagudem

Khammam District.

3. Revenue Divisional Officer and Land Acquisition officer, Peddapalli,

Karimnagar District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, declaring the land acquisition proceedings in respect of the petitioner's land admeasuring Ac.5-16guntas and Ac.4-5guntas in S.Nos:57/7 and 57 respectively of Alluru village, Kamanpura as illegal, null and void.

Counsel for the Petitioner: MR.M.S.PRASAD

Counsel for the Respondents 1 & 3: GP FOR LAND ACQUISITION

Counsel for the Respondent No.2: MR.K.SRINIVASAMURTHY

WRIT PETITION NO : 2251 of 1982

Between:

1. Kommu Parvathalu, S/o. Beeraiah

2. N. Satyanarayana, S/o. Venkat Rao

3. Kommu Beeraya, S/o. Late Kommu Parthavalu

4. Kommu Rajaiah, s/o. Late Kommu Parthavalu

5. Kommu Gopal, S/o. Late Kommu Parthavalu

6. Kommu Venkanna, S/o. Late Kommu Parthavalu

7. Kommu Sudershan, S/o. Late Kommu Parthavalu

(All are R/o.Jallapalli Village, Peddapalli Taluq, Karimnagar District)

...PETITIONERS

AND

1. The Government of A.P. rep.by its Secretary to Government, Industries and

Commerce Department, Secretariat Buildings, Hyderabad.

2. The Special Deputy Collector (Land Acquisition), Godavarikhani.

3. M/s. Singareni Collieries Company Limited, rep.by its Chairman,

Godavarkhani.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction declaring that the entire proceedings of acquisition relating to the lands of the petitioners in

pursuance of G.O.Rt.No.:814 Industries and Commerce (ID) Department dated 12.08.1974 including the passing of the award as invalid

Counsel for the Petitioner 1 & 2: MR.C.ANANDA RAO

Counsel for the Petitioners 3 to 7: MR.I.AGA REDDY

Counsel for the Respondents 1 & 2: GP FOR LAND ACQUISITION

Counsel for the Respondent No.3: MR.K.SRINIVASAMURTHY

WRIT PETITION NO : 1982 of 1982

Between:

1. J. Surender Rao

2. Muppudi Kistaiah

3. Vegolam Agamma

4. Vegalom Hanumaiah

5. Vegolam Rajaiah

6. Vegolam Madanaiah

7. Ponnam Venkatramiah

8. Ponnam Rajamallu

9. Panjala Balaiah

10. Chittalapalli Rajaiah

11. K. Venkateswara Rao

12. Ponnam Sailu

13. T. Mallaiah

14. Ponnam Rama Lachaiah

15. Ponnam Rama Swamy

16. Ponnam Ramaiah

17. Ponnam Rajaiah

18. Ponnam Mallaiah

19. Nalla Venkulu

20. Ayyavari Venkatramaiah

21. Sagarsu Ramachader Rao

22. Bompalli Ramulu

23. Karimalli Tirumal Rao

24. Vegolam Chinna Rajam

25. Vegolam Venkata Narayana

26. Ponnam Ramaswamy

27. Goshiki Narsaiah

28. Goshiki Gattaiah

29. Goshiki Banaiah

30. Vegolam Rajamallu

31. Vempati Rajesham

32. Poolo Pochalu

33. Ponnam Pochalu

34. Kathuri Rajesham

35. Yasam Durgaiah

36. Poolo Ashanna

37. T. Jagannatha Rao

38. Gaddala Parvathalu

39. Boddam Veeraiah

40. Poola Rajam

41. Mangali Nambaiah

42. Kummari Rajmallu

43. Miriyala Prasada Rao

(All are resident of Nagepalli (v), Peddapalli Taluq, Karimnagar District)

... PETITIONERS

AND

1. The Government of A.P., rep.by its Secretary to Government, Industries & Commerce Department, A.P., Hyderabad

2. The Special Deputy Collector, (Land Acquisition) Godavarikhani.

3. M/s. Singareni Collieries Company Limited, Godavarikhani.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ or direction declaring that the entire proceedings of acquisition relating to the lands of the petitioners in pursuance of G.O.Rt.No: 16 Industries and Commerce (ID) Department dated 30.01.1975 are invalid

Counsel for the Petitioners: MR.C.ANANDA RAO

Counsel for the Respondents 1 & 2: GP FOR LAND ACQUISITION

Counsel for the Respondent No.3: MR.K.SRINIVASAMURTHY

WRIT PETITION NO : 144 of 1983

Between:

1. Choppari Rajaiah

2. Choppari Aggimally

3. Bandi Veeraiah

4. Gunda Rama Lakshmi

5. Gunda Nagaiah

6. Ananthula Agaiah

7. Bhagaria Bhoomaiah

8. Bollapalli China Lingaiah

9. Bollapalli Ramaiah

10. Mustala Veeraiah

11. Gunda Vajramma

12. Mandla Ramachandra Reddy

(All are Residents of Joolapally Village, Peddapallu Taluq, Karimnagar District)

... PETITIONERS

AND

1. The Government of Andhra Pradesh, rep.by its Secretary to Government,

Industries and Commerce Deprtment, A.P. Hyderabad.

2. The Special Deputy Collector, (Land Acquisition) Godavarikhani.

3. M/s. Singareni Collieries Company Limited, Godavarikhani.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records relating to and in connection with the G.O.Rt.No.814 Industries & Commerce (ID) Department dated 12.08.1974 relating to the acquisition of lands of the petitioners and quash the same by issuing Writ of Certiorari or any other appropriate writ, order or orders, direction or directions.

Counsel for the Petitioner: MR.C.ANANDA RAO

Counsel for the Respondents 1 & 2: GP FOR LAND ACQUISITION

Counsel for the Respondent No.3: MR.K.SRINIVASAMURTHY

WRIT PETITION NO : 1978 of 1982

Between:

1. Ponnam Raja Mallu, S/o. Narayana

2. J. Sriranga Rao, S/o. Ratnakar Rao

3. Ponnam Venkatramaiah, S/o. Raja Mallu

4. Satla Chandraiah, S/o. Sailu

5. Gaddala Parvatalu, S/o. Rajam

(All are R/o. Nagepalli Village, Peddapalli Taluk, Karimnagar District)

...PETITIONERS

AND

1. The Government of A.P., rep.by its Secretary to Government, Industries

and Commerce Department, Secretariat Buildings, Hyderabad.

2. The Special Deputy Collector (Land Acquisition Officer), Godavarikhani.

3. M/s. Singareni Collieries Company Limited, Godavarikhani.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ or direction declaring that the entire proceedings of acquisition relating to the lands of the petitioners in pursuance of G.O.Rt.No.825 Industries and Commerce (ID) Department dated 18.08.1977 as published in A.P.Gazette No.36/A dated 08.09.1977 are invalid

Counsel for the Petitioners: MR.C.ANANDA RAO

Counsel for the Respondents 1 & 2: GP FOR LAND ACQUISITION

Counsel for the Respondent No.3: MR.K.SRINIVASAMURTHY

WRIT PETITION NO : 1945 of 1982

Between:

1. Vegolam Rajaiah, S/o. Venkaiah

2. Sattaiah,S/o. Venkaiah

3. Vegolam Rajaiaj, s/o. Ramakistu

4. Vegolam Ramaswamy, S/o. Veeraswamy

5. Vegolam Sailu, S/o.Gattaiah

6. Vempati Rajesham, S/o. Raja Yellaiah

7. J. Surender Rao,S/o.Sriranga Rao

8. Gajja Veeraiah,S/o. Narsimha Rao

9. Ponnam Mallaiah, S/o.Hanmanthu

10. D. Sailu, S/o. Saimallu

11. Ponnam Ramaswamy, S/o. Balaiah

12. Ponnam Rajamallu, S/o. Narayana

13. Ponnam Ramalachaiah,S/o. Pochalu

14. Ponnam Ramaiah, S/o. Guruvaiah

15. Venkatramaiah, S/o. Rajamallu

16. Ponnam Rajam, S/o. Kistaiah

17. Putta @ Katta Mallesham, S/o. Rajam

18. Bompalli Lasmaiah, S/o. Venkaiah

(All are R/o. Nagepalli Village, Pedapalli Taluk, Karimnagar District)

... PETITIONERS

AND

1. The Government of Andhra Pradesh, rep.by its Secretary to Government,

Industries & Commerce Department, A.P., Hyderabad.

2. The Special Deputy Collector (Land Acquisition), Godavaraikhani.

3. M/s. Singareni Colleries Company Limited, Godavarikhani.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, order or direction declaring that the entire proceedings of acquisition relating to the lands of the petitioners in pursuance of G.O.Rt.No.4 Industries & Commerce (ID) Department dated

01.01.1975 are invalid

Counsel for the Petitioners: MR.C.ANANDA RAO

Counsel for the Respondents 1 & 2: GP FOR LAND ACQUISITION

Counsel for the Respondent No.3: MR.K.SRINIVASAMURTHY

WRIT PETITION NO : 22429 of 1996

Between:

Muthyam Agaiah Goud, S/o. Late Rajaiah Goud, R/o. Julapalli (V), Karimnagar District

... PETITIONER

AND

1. Land Acquisition Officer/RDO, Peddapalli, Karimnagar District.

2. M/s. Singareni Collieries, rep.by its General Manager, Godavarikhani,

Karimnagar District

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ or Order or direction, one in the nature of Writ of Mandamus

i. declaring the action of the respondents in not taking steps for referring the matter to the Civil Court for determination of market value of the acquired lands in Sy.Nos.30, 31, 39, 83 and 84(d) of Jallipalli (v), Kamanpur (M), Karimnagar District, as arbitrary, illegal and violative of Articles 14, 16, 21 and 300-A of the Constitution of India;

ii. acquisition proceedings of 4(1) notification dated 01.01.1974 to the extent of lands covered by the petitioner in Sy.Nos.30, 31, 39, 83 and 84(d) of Jallipalli (v) may be quashed;

iii. a direction may be issued to the respondents to initiate fresh acquisition proceedings and take further steps for payment of compensation;

iv. costs be awarded to the petitioner

Counsel for the Petitioner: MR.P.MEHAR SRINIVASA RAO

Counsel for the Respondent No.1: GP FOR LAND ACQUISITION

Counsel for the Respondent No.2: MR.K.SRINIVASAMURTHY

The Court made the following:

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COMMON JUDGMENT:(Per Hon'ble Sri Justice K.C. Bhanu)

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These writ appeals are placed before us pursuant to the order of remand by the Supreme Court. The cases on hand have chequered history. In order to

consider the question relating to the validity of draft notifications issued under Section 4(1) of the Land Acquisition Act, 1894, few relevant facts are required to be noticed.

FACTUAL MATRIX:

W.A.Nos.272 to 274, 393, 1085 of 1982 and W.P.Nos.472, 1945, 1978, 1982 and 2251 of 1982 and 2897 of 1981 were disposed of by a common order, dated 15.07.1983, wherein a Division bench of this Court held that Section 23(1) of the Land Acquisition Act, 1894 (for short 'the Act'), in so far as it directs that determination of compensation payable on the basis of the market value as on the date of publication of notification is not violative of any fundamental right or the proviso to Article 31-A(1) of the Constitution of India and there cannot be any direction to compute the compensation payable for the lands, compulsorily acquired on the basis of the market value as on the date of payment of the compensation and on the second question the Division Bench held that the inordinate delay in completion of award resulting in delayed payment of compensation has vitiated the acquisition proceedings rendering them liable to be quashed. It is further held that the acquisition proceedings taken in pursuance of notification issued under Section 4(1) of the Act, dated 04.07.1968, in which the award enquiry was not taken up until 1979 and the award was not passed till 1982 to be arbitrary, illegal and void and accordingly quashed the same.

It is also held that in all these cases there has been an inordinate delay of over two years in filing declarations under Section 6 of the Act and in completing the award proceedings. Hence, the notification issued under Section 4(1) of the Act

is quashed. It is also held that anything said in the judgment will not preclude the respondents from acquiring the lands. In an event of acquisition proceeding being taken fresh, they shall be completed and compensation paid expeditiously.

W.A.Nos.468 and 469 of 1988 were disposed of by a Division Bench of this Court vide order dated 22.03.1988 wherein it was held that

> "We have already noticed that the notification under Section 6 of the Act issued in the present case suffered from infirmity of possession not having been taken within three months of the declaration under Section 4(1) r/w Section 17 of the Act. That being the position the petitioner approached this court only when the petitioner was threatened with dispossession and award not being announced. Therefore, we do not think that this is a fit case to bar the petition from approaching this Court under Article 226 of the Constitution of India. We are of the view that the learned Single Judge rightly exercised discretion and it cannot be said that the writ petitions are highly belated to persuade this Court from interfering with the discretion exercised by the learned Single Judge."

Appeals by special leave from the judgment and order dated 15.07.1982 and W.P.Nos.472, 1945, 1978, 1982 and 2251 of 1982 and batch of appeals were preferred in Civil Appeal Nos.810-817 of 1984 before the Supreme Court. The Supreme Court held:

> "Land Acquisition (Andhra Pradesh Amendment & Validation) Act, 1983 (A.P.
> Act No.9 of 1983) reproduced above was not brought to the notice of the High Court. We, therefore, set aside the High Court Judgment and remand the appeals to the High Court for respondent-consideration. Learned counsel for the parties have no objection to the course we have taken in these appeals.

> The appeals are disposed of in the above terms. No costs."

As per the decree of the Supreme Court in the aforementioned Civil Appeal Nos.810-817 of 1984 it is ordered as:

> "That the Judgment and Order dated 15.07.1983 of the High Court of Judicature, Andhra Pradesh at Hyderabad in Writ Appeal Nos.272, 273 and 274 of 1982 and Writ Petition Nos.472, 1945, 1978, 1982 and 2251 of 1982 and the Judgment and Order dated 24.02.1982 of the Single Judge of the aforementioned High Court in W.P.Nos.9821, 7082 and 2846 of 1981 be and are hereby set aside and the matters be and are hereby remanded to the aforesaid High Court with the directions that the said High Court Do restore to its file – Writ Petition Nos.472, 1945, 1978, 1982 and 2251 of 1982 and 9821, 7082 and 2846 of 1981 and Do dispose of the same after consideration."

So also the appeal by special leave from the Judgment and Order, dated 12.03.1986, of this Court made in W.P.No.144 of 1983 was also set aside and the matter was remitted to this Court with a direction to restore the writ petition to file and dispose of the same after re-consideration. So also the order against the appeals by special leave from the Judgment and Order, dated 22.03.1988, of this Court made in W.A.No.468 and 469 of 1988 was also set aside and the matters were remitted to this Court with a direction to restore the Writ Petition Nos.1051 and 1060 of 1986 and dispose of the same after re-consideration.

The brief facts that are necessary for disposal of W.A.Nos.272, 273 and 274 of

1982 which are filed against the order of the learned Single Judge of this Court dated 24.02.1982 made in W.P.Nos.2846, 7082 and 9821 of 1981 are as follows:

W.P.No.7082 of 1981 was filed to issue appropriate writ or direction declaring the land acquisition proceedings in respect of the petitioners therein to an extent of land admeasuring Ac.3-28 guntas and Ac.1-34 guntas. in Sy.No.54/A and 54/C respectively of Alluru Village, Kamnapuram Firka, Peddapalli Taluk, karimnagar District.

Whereas W.P.No.9821 of 1981was filed to issue a writ in the nature of Mandamus declaring the land acquisition proceedings in respect of he petitioner's land admeasuring Ac.3-38 Gts., Ac.2-00 and Ac.6-35 Gts. in Sy.No.85/1, 86/2 and 91 respectively of Alluru village.

Whereas W.P.No.2846 of 1981 was filed to issue appropriate writ or a direction declaring the land acquisition proceedings in respect of the petitioners land in Sy.Nos.58 and 79 of Alluru village as null and void. The learned Single Judge following the Judgment in W.P.No.6491 of 1979 allowed the writ petitions.

W.P.No.6491 of 1979 was filed to issue an appropriate order to quash the notification issued under Section 4(1) of the Act in respect of the lands bearing Sy.Nos.2/1 and 3/2 of an extent of Ac.6.30 cents, 0.19 cents, Sy.No.7/3 of an extent of Ac.8.75 cents and Sy.Nos.9/1 and 9/2 of an extent of Ac.2.95 cents and Ac.1.45 cents respectively situated in Madhavadara village, Visakhapatnam wherein the learned Single Judge allowed the writ petition

through order dated 22.02.1982 declaring that the words

> "at the date of the publication of the notification under Section 4 (1)", occurring in Section 23(1) of the Land Acquisition Act, 1894 as void and unconstitutional. I also hold that the second proviso to Article 31-A of the Constitution obliges the State to calculate and pay compensation for the agricultural lands under personal cultivation on the basis of market values prevailing on the date of payment of compensation and never on the basis of any anterior date."

W.A.Nos.468 and 469 of 1988 were filed against the order of High Court dated 12.03.1987 made in W.P.Nos.1051 and 1060 of 1986.

W.P.Nos.1051 and 1060 of 1986 were filed to issue a writ to quash the notification issued under Section 4(1) of Act published in the official Gazette dated 09.10.1975 in respect of the acquisition of Ac.0-19Guntas, Ac.1-31Guntas, and Ac.0-20Guntas of land of Alluru Village in Karimnagar District, wherein a common order was passed by the learned Single Judge of this Court dated 12.03.1987 where under the learned Single Judge quashed the notification issued under Section 4(1) of the Act and the same was confirmed in the W.A.Nos.468 and 469 of 1988 dated 22.03.1988 by a Division Bench of this Court.

The brief facts that are necessary for the disposal of all the present writ appeals and writ petitions in nutshell are as follows:

That an extent of Ac.303.06Gts situated in Alluru Village, Peddapalli Taluka, in

Sy.Nos. 13, 14AB, 47AB, 48, 49ABCD, 50A to G, 51AB, 52ABC, 53A to F, 54ABC, 55ABCD, 56, 57AB, 58AB, 59AB, 61ABCD, 62ABCD, 63, 64ABC, 71A to D, 72, 73 to 76, 77A to D, 78 to 85, 86/1-2, 90 to 93, 95, 97, 99, 102, 103, 104, 105, 106, 107AB, 108AB, 110, 111AB, 113, 114AB, 122ABC, 123ABC, 124, 125, 127 to 128 were acquired by the State under a draft notification under Section 4(1) of the Act published in the Andhra Pradesh Gazette dated 09.10.1975. The draft declaration under Section 6 of the Act was published in the Andhra Pradesh Gazette dated 30.10.1975. The said lands were acquired for the public purposes for increased production of coal of Singareni Collieries Company.

Subsequently, the Singareni Collieries addressed a letter dated 31.12.1997 stating that an extent of 56.25acres were not required to the company and the said lands may be deleted from the requisition. Again on 25.05.1983, the company sent a letter to include Ac.14-18cents in the requisition. Therefore, the acquisition of the lands in respect of Alluru Village is only to an extent of 232.03acres.

While the matter stood thus some pattadars filed W.P.Nos.2846, 2897, 7082 and 9821 of 1981 and 472 of 1982. The High Court quashed the notification issued under Section 4(1) of the Act against which the Singareni Collieries preferred an appeal to the Supreme Court. The Supreme Court granted stay of the orders passed by this court on 10.02.1994. Further proceedings have been taken up by the Land Acquisition Officer. Some of the claimants again approached this Court by filing W.P.Nos.13995 of 1985, 105 and 1060 of 1986.

In W.P.No.13995 of 1985 a direction was given to pass an award subject to the

result of the writ petition. W.P.No.105 of 1986 was filed to issue a direction not to dispossess the petitioner. So also W.P.No.1060 of 1986 was filed to issue a direction not to dispossess the petitioner. But in both the writ petitions the possession of lands were already taken on 28.04.1977. Therefore, an award is thus finalized to an extent of 234.03acres determining the market value of the wet lands under Group-I at Rs.4,000/- per acre, at Rs.2,000 per acre in respect of dry lands under Category-III and Rs.2,500/- per acre in respect of dry lands under Group-II and Rs.3,000/- per acre in respect of dry lands under wet cultivation. Besides fixing the compensation at Rs.10/- per each toddy tree and Rs.8/- per each Sendhi tree an amount of Rs.21,974/- was awarded for wells besides granting all other statutory benefits.

According to the Land Acquisition Officer the possession of the lands was taken on 28.04.1977. In respect of the lands under Alluru Village an award dated 25.06.1986 was passed.

W.P.Nos.144 and 2251 of 1982 were filed to quash the notification issued under Section 4(1) of the Act published in the official Gazette dated 12.08.1974 in respect of the lands situated in Jallapalli village in Sy.Nos.1ABC, 2AB, 3E, 5A, 6A, 7ABCE, 14, 42A, 43C, 81, 85, 86A, 88AB and 92AB and in respect of lands covered in Sy.Nos.10/AB, 70/AB, 10/AE, 44/AB and 84/AB for the above writ petitions respectively. The specific case of the petitioners is that the possession of the lands was not taken and the dispensing of enquiry under Section 4(1) of the Act was not *bona fide*. Notice under Section 9(3) of the Act was not served; the notification was not published in the locality and the procedure under Section 40 of the Act was not all followed.

W.P.No.2897 of 1981 was filed to declare the land acquisition proceedings in respect of the lands in Sy.No.59 as illegal, void and consequently issue a direction to re-deliver the possession of the vacant land on the ground that draft notification under Section 4(1) was not published and there are no grounds to dispense with the enquiry under Section 5(a) of the Act; no grounds to invoke urgency under proviso to Section 17(4) of the Act and no enquiry was conducted for all these five years.

W.P.No.472 of 1982 was filed to declare the land acquisition proceedings in respect of the lands admeasuring Ac.5-16Guntas and Ac.4-05Guntas in Sy.Nos.57/7 and 57 respectively of Alluru Village as illegal.

W.P.No.1945 of 1982 was filed by the claimants to quash the entire proceedings of the land acquisition relating to the lands of the petitioners in pursuance of G.O.Rt.No.4 Industries and Commerce (ID) Department dated 01.01.1975.

W.P.No.1978 of 1982 was filed to quash the notification issued under Section 4(1) of the Act dated 18.08.1977 in respect of the lands of the petitioners of Nagapally village.

W.P.No.1982 of 1982 was filed by the petitioners to quash Section 4(1) notification issued on 30.01.1975 in respect of Nagapally village.

W.P.No.22429 of 1996 was filed by the petitioner to issue an appropriate writ or direction declaring the action of the respondents in not taking steps for referring

the matter to Civil Court for determination of the market value of the acquired land in Sy.Nos.30-31, 39, 83 and 84D of Jallapalli village vide acquisition proceedings under Section 4(1) of the Act dated 01.01.1974 and to quash the same.

In all these writ petitions according to the Land Acquisition Officer the possession was taken on 28.04.1977. But the petitioners in W.P.No.2251 of 1982 state that the possession was not taken even as on today in respect of the lands in Alluru Village, an award was passed on 25.06.1986. In respect of the lands in Nagapally village, which are the subject matter of W.P.No.1945, 1982 and 1978 of 1982 awards have been passed to an extent of 351.30 in four phases on the following dates

1. Acres 78.22Gts. dated 25.11.1985
2. Acres 82.22 ½Gts. dated 05.01.1985
3. Acres 190.25 ½Gts. dated 15.09.1984
4. Acres 46.04Gts. dated 23.02.1989

The petitioners in these writ petitions have taken amounts and filed an application under Section 18(1) of the Act. In respect of some petitions the matters was settled in the Lok Adalat and the reference Court in some cases enhanced the same. In an appeal the same were dismissed by this Court in A.S.No.2228 of 1989 and A.S.No.1764 of 1988.

In respect of W.P.No.2251 and 144 of 1982 an award was passed on 08.08.1981 in respect of Ac223.11Gts and another award dated 29.10.1982 in respect of Ac.176.29Gts.

In all these writ petitions and writ appeals the questions that fall for consideration are one; whether the draft notification issued under Section 4(1) of the Act is liable to be quashed in view of the delay in passing the awards after taking possession of the lands; whether there are any laches/delay on the part of the petitioners in questioning 4(1) notification; whether Land Acquisition (Andhra Pradesh Amendment & Validation) Act, 1983 is applicable to the present facts of the case; whether the delay in passing the award is a ground for quashing notification under Section 4(1) of the Act.

We shall take up the first question whether the draft notification issued under Section 4(1) of the Act, is liable to be quashed only on the ground that there is delay in passing the awards after taking possession of the lands?

The acquired lands are situated in three villages viz., Alluru, Nagapalli and Jallipalli. So far as proposal to acquire the lands situated in Alluru village is concerned, draft notification under Section 4(1) of the Act was issued on 09-10-1975 followed by draft declaration under Section 6 of the Act, dated 30-10-1975. The possession of the land was taken over on 28-04-1977.

In Writ Petition Nos.9821 of 1981, 2846 of 1981, 2897 of 1981, 7082 of 1981, 372 of 1982, 1051 of 1986, and 1060 of 1986, the draft notification, dated 09-10-1975, is impugned. The earliest writ petition has been filed in the year 1981. Some of the writ petitions have been filed even in the year 1986. It is true, by the time the writ petitions were filed, the awards were not passed though possession of the lands were taken over from the writ petitioners.

We agree that there has been certainly delay in passing the award. The person who is deprived of the land must be given due compensation without avoidable

delay.

We are bound to take the laches on the part of the writ petitioners in approaching this Court. The Writ Petitions have been filed after a long lapse of more than six years and in some cases 11 years. After publication of the draft notification, there is a delay of minimum of four years in filing the writ petitions even after taking possession of the acquired lands. However, learned counsel for the petitioners placed reliance upon the decision in **P. Appalamurthy & Others v. State of A.P. & Others** in support of their submission that long delay in making the award after issuance of the notice under Section 4(1) of the Act itself is sufficient to quash the notification. The delay in approaching the Court by the aggrieved persons is of no consequence.

In **P. Apalamurthy's case** (1 Supra), Jeevan Reddy, J (as his Lordship then was) observed:

> "……the delay in approaching the Court is not by itself fatal, since there is no law of limitation obliging a person to approach the Court within a particular time. Laches is one of the considerations, which must weigh with the Court in exercise of its discretionary power under Art.226 of the Constitution of India".

The observations made by the learned Judge while disposing of the writ petition cannot be torn out of context to contend that delay or laches on the part of the land owners in approaching the Court challenging the acquisition, can never be taken into consideration. No doubt, the judgment received its affirmation in the hands of the Supreme Court, but, it is just and necessary to notice the reasons assigned by the Apex Court in confirming the judgment of this Court in **P. Appalamurthy's case**(1 Supra).

It is observed, by the Supreme Court while disposing of C.A. Nos.818 to 820 of 1984 by order, dated 30-03-1995, confirming the judgment referred to hereinabove as follows:

> "It is not disputed that the possession of the land is still with the land owners. Apart from the notification under Sections 4 and 6, which were issued more than 25 years ago, nothing more has been done by the State Government. We find some plausibility in the contention of the learned counsel for the appellant that the High Court should not have quashed the land acquisition proceedings on the ground of delay alone, but keeping in view the facts and circumstances of this case, specially that the possession of the land is till-date with the land owners, we are not inclined to interfere with the impugned judgment of the High Court."

In the case on hand, the possession of the lands was taken-over as early as on 28-04-1977. Nothing prevented the writ petitioners in approaching this Court within a reasonable time from the date of taking over possession of the land complaining of inaction on the part of the Land Acquisition Officer in passing the award even after taking over possession of the land.

In **Ram Chand & Others v. Union of India & Others**, the Supreme Court observed:

> "The question of delay in invoking the writ jurisdiction of the of the High Court under Article 226 or of this Court under Article 32, has to be considered along with the inaction on the part of the authorities, who had to perform their statutory duties. Can the statutory authority take a plea that although it has not performed its duty within a reasonable time, but it is of no consequence because the person, who has been wronged or

> deprived of his right, has also not invoked the jurisdiction of the High Court or of this Court for a suitable writ or direction to grant the relief considered appropriate in the circumstances? The authorities are enjoined by the statute concerned to perform their duties within a reasonable time, and as such they are answerable to the Court why such duties have not been performed by them, which has caused injury to claimants. By not questioning, the validity of the acquisition proceedings for a long time since the declarations were made under Section 6, the relief of quashing the acquisition proceedings has become inappropriate, because in the meantime, the lands notified have been developed and put to public use. The lands are being utilised to provide shelter to thousands and to implement the scheme of a planned city, which is a must in the present set-up. The outweighing public interest has to be given due weight. That is why this Court has been resisting attempts on the part of the landholders, seeking quashing of the acquisition proceedings on ground of delay in completion of such proceedings."

The Supreme Court having so observed, instead of quashing the acquisition proceedings awarded additional compensation. The Court exercised its power under Article 142, which is very wide and can be exercised in the interest of justice. But for the fact that the awards were passed in this batch of cases and almost all of them have received compensation under protest, we would have passed some appropriate orders duly compensating the writ petitioners.

In the instant case, we are not inclined to grant the relief of quashing the acquisition proceedings, because in the meantime, the lands notified have been taken-over, developed and enormous amounts have been invested by the beneficiary of the acquisition(Appellant) and the operation of coal mines commenced long time ago. It would be inappropriate and unjust to quash the draft notifications issued about 30 years ago.

W.P. Nos.1945, 1982 and 1978 of 1982, relate to Nagapalli village. These writ petitions have been filed challenging the draft notification issued under Section 4(1) of the Act, dated 01-01-1975, followed by declaration under Section 6 of the Act, dated 11-10-1976.

Awards have been passed against which all the petitioners have filed protest application under Section 18 of the Act and the same were taken on file by the reference Court. The matters were referred to Lok Adalath resulting in determination of the market value of the acquired land. For the very same reasons recorded supra, we are not inclined to interfere with the draft notification and quash the same.

In W.P. No.2251 of 1982, the draft notification, dated 05-09-1974, proposing to acquire the lands situated in Jallipalli village, for the benefit of the appellant is impugned. The draft declaration under Section 6 of the Act was published on 19-12-1974 and awards were passed on
03-08-1981 and 29-10-1982. Some of the petitioners have not only received the award but also sought for reference under Section 18 of the Act which were disposed of against which even appeals were filed in this Court and the same were also disposed of.

However, in W.P. No.2251 of 1982, it is contended that though notification under Section 4(1) of the Act was issued in the year 1974 and enquiry under Section 5-A of the Act was dispensed with, possession of the land was not taken till the date of filing of the writ petition. Awards were passed on
03-08-1981 and 29-10-1982. The award as such is not challenged in the writ petition.

In the circumstances, we are not inclined to agree with the contention that the possession of the lands still remains with the writ petitioners. Since the award has been passed, the possession shall be deemed to have been taken-over validly and the lands vest in the State free from all encumbrances.

The next question that falls for consideration is whether the Land Acquisition (Andhra Pradesh Amendment and Validation) Act, 1983, is applicable to the present facts of the case?

The Supreme Court while disposing of civil appeals preferred by the appellant herein, having referred to the Land Acquisition (Andhra Pradesh Amendment and Validation) Act, 1983, observed that said provisions were not brought to the notice of this Court and on that ground alone set aside the High Court judgment and remanded the same to this Court for fresh consideration.

Act 9 of 1983 is an Act further to amend the Land Acquisition Act, 1894, in its application to the State of Andhra Pradesh and to validate certain acquisition of land under the said Act.

By Act No.9 of 1983, Sections, 4, 5-A and 17 of the Land Acquisition Act, 1894, were amended.

Section 5 of the Act deals with the validation of certain acquisitions, which were quashed by this Court. The provisions of Act No.9 of 1983 have no bearing whatsoever upon the question that had fallen for consideration viz.,

whether the delay in passing the award itself is a ground to quash the acquisition proceedings.

We accordingly hold that the provisions of Act No.9 of 1983 are not applicable to the facts situation on hand. It was further contended by the learned counsel for the writ petitioners that this Court cannot go into any other question except to consider whether the provisions of Act No.9 of 1983 are applicable to the facts situation on hand. The submission is totally misconceived. The Apex Court having referred to the provisions of Act No.9 of 1983 required this Court to reconsider the subject matter. Accordingly, we have heard the learned counsel on all aspects of the matter and find no merit in the submissions made by the learned counsel for the writ petitioners.

In Writ Petition No.22429 of 1996, the petitioner challenges the inaction on the part of the Land Acquisition Officer in taking steps for referring the matter to the civil Court for determination of market value of the acquired lands in Survey Nos.30, 31, 39, 83 and 84(d) of Jallipalli village, Kamanpur Mandal, Karimnagar District, as arbitrary and illegal.

We have already noticed that the draft notification was issued on 01-01-1974 proposing to acquire the lands. The award was passed on 03-08-1981 but according to the petitioner meager amounts were awarded. Dissatisfied with the same, application was filed under Section 18 of the Act for referring the matter to the Civil Court for re-determination of the market value of the acquired land. It is alleged that the Land Acquisition Officer has promised that the same will be referred to the Civil Court for re-determination, but no such reference was

made. The petitioner having waited for considerable time, stated to have been made an enquiry in the office of the Civil Court in order to find out whether any reference, as such, was made by the Land Acquisition Officer, he had learnt that no such reference was made on the ground that connected matter was pending in the High Court. The petitioner stated to have been further learnt that the very notification was quashed by this Court against which Singareni Collieries carried the matter in appeal to the Supreme Court. According to the petitioner, no steps were taken for referring the matter.

That a perusal of the affidavit filed by the petitioner does not inspire any confidence. The averments made in the affidavit filed in support of the writ petition are totally vague and indefinite in their nature.

The details and the date on which the petitioner alleged to have made an application seeking reference under Section 18 of the Act is not stated. The fact remains that the award was passed as early as on 03-08-1981 and the present writ petition has been filed after a long lapse of 15 years seeking a Writ of *Mandamus* to direct the respondents to refer the matter to a competent Court of Civil Jurisdiction under Section 18 of the Act. The writ petition deserves dismissal on the ground of laches. Obviously, the petitioner indulged in speculative litigation since the connected matters have been pending in this Court as well as the Supreme Court. He cannot be allowed to take advantage of the pendency of the proceedings. We find no merit in this writ petition.

In the result, the writ appeals are allowed. The writ petitions fail and the same shall accordingly stand dismissed without any order as to costs.

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B. SUDERSHAN REDDY, J

Date: -10-2004.

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K.C. BHANU, J

DSK/PV

To

1. The Secretary to Government of A.P., Industries & Commerce (I.D) Department, Secretarait Buildings, Hyderabad.

2. The Special Deputy Collector, Land Acquisition. Godavari Khani, Karimnagar District.

3. The Land Acquisition Officer & Revenue Divisional Officer, Peddapalli, Karimnagar District.

4. The Singareni Collieries Limited, rep. by its Chairman, Kothagudem, Khammam District.

5. Two CCs to GP For Finance and Planning, High Court Buildings, Hyderabad (OUT).

6. Two CCs to GP For Land Acquisition, High Court Buildings, Hyderabad (OUT).

7. Two CD Copies.